

01460

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20348**

T. Sams
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FILE: D-187974

DATE: January 19, 1977

MATTER OF: Massa Flooring Co., Inc.

DIGEST:

1. There is no legal principle on which award may be disturbed merely because bidder may have submitted below cost bid. Moreover, responsibility for administration and enforcement of Service Contract Act rests with Department of Labor and not GAO.
2. To reject bid as being unreasonably low would require determination that bidder was nonresponsive. GAO does not review protests against affirmative determinations of responsibility by contracting officials except in cases of fraud or misapplication of definitive responsibility criteria set forth in solicitation.
3. Protest contending that successful bid of \$0.10 per man-hour is nonresponsive in view of IFB provision that "no charge" or "zero" bid is nonresponsive is denied since it is apparent from face of bid that successful bidder did not, in fact, bid "no charge" or "zero" and thus complied with IFB.

By letter dated December 3, 1976, Massa Flooring Co., Inc., (Massa) protested the award of a contract to Artie Barsamian by the General Services Administration for carpet cleaning and installation under invitation for bids (IFB) GSW-IFWR-70001.

Massa contends: (1) that Barsamian's bid of \$0.10 per man-hour for carpet repair and installation is below the minimum wage determination established by the Department of Labor pursuant to the Service Contract Act of 1965, 41 U.S.C. § 351 et seq. (1970); and (2) Barsamian's bid is nonresponsive in view of a provision in the IFB that provided: "NO CHARGE OR A ZERO BID WILL MAKE YOUR BID NONRESPONSIVE." Massa contends that Barsamian's bid of \$0.10 per man-hour is in effect "no charge" or "zero."

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With regard to Massa's first contention, it is apparently Massa's argument that Barsamian will not be able to adequately perform at its unreasonably low bid price. In this regard, we have repeatedly held that we are aware of no legal principle on the basis of which an award may be precluded or disturbed merely because the low bidder submitted a below cost bid. Karadis Bros. Painting Co., Inc., B-187524, November 22, 1976, 76-2 CPD 440.

We believe that to properly reject a bid as being unreasonably low would require a determination that the bidder is not responsible. In this vein, our Office does not review protests against affirmative determinations of responsibility, unless either fraud is shown on the part of procuring officials or where the solicitation contains definitive responsibility criteria which allegedly have not been applied. Karadis Bros. Painting Co., Inc., *supra*.

Moreover, the responsibility for administration and enforcement of the Service Contract Act rests with the Department of Labor and not with GAO. SIMCO Electronics, B-187152, August 31, 1976, 76-2 CPD 209.

With regard to Massa's second contention, it is apparent from the face of its bid that Barsamian did not, in fact, bid "no charge" or "zero," and thus complied with the terms of the JPB provision in question.

Accordingly, the protest is denied.


Deputy Comptroller General
of the United States